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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,201	07/29/2003	David Greenstein	N9601	5666

23456 7590 05/17/2004

WADDEY & PATTERSON  
414 UNION STREET, SUITE 2020  
BANK OF AMERICA PLAZA  
NASHVILLE, TN 37219

EXAMINER

JONES, DAMERON LEVEST

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/629,201

### Applicant(s)

GREENSTEIN ET AL.

### Examiner

D. L. Jones

### Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 and 15-19 is/are allowed.
- 6) ☒ Claim(s) 9-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/31/03
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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## ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of the acceptable sequence listing filed 11/17/03.

**Note:** Claims 1-19 are pending.

## APPLICANT'S INVENTION

2. Applicant's invention is directed to methods of nematode control as set forth in independent claims 1, 9, and 14.

## 112 REJECTIONS

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 9 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 9, line 6 and claims 10-13: The term 'slow' is a relative term. Thus, one cannot ascertain what Applicant intends to be encompassed by the term. Thus, Applicant is respectfully requested to clarify the sentence or replace or delete the term in order that it is clear what is being claimed. Since claims 10-13 dependent on independent claim 9, they too are ambiguous.

Claims 9 and 14, lines 3 and 6, respectively: The claims are ambiguous because of the phrase 'detecting a composition including the test compound'. In particular, it is

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unclear if the composition is the major sperm protein polypeptide –testing compound complex or if Applicant is referring to some other composition. Please clarify in order that one may readily ascertain what is being claimed.

Claim 14, line 2: The claim as written is ambiguous because it is unclear what type of 'matrix' the claim is directed to. Please clarify.

### **ALLOWABLE CLAIMS**

5. Claims 1-8 and 15-19 are allowable over the prior art of record.

### **COMMENTS/NOTES**

6. It should be noted that no prior art has been cited against Applicant's claims. However, Applicant must address and overcome the 112 rejections above. In particular, the claims are distinguished over the prior art of record because the prior art neither anticipates nor renders obvious binding a compound to the major sperm protein/polypeptide and observing female sexual maturation of a nematode as a means of determining anti-nematode agents.

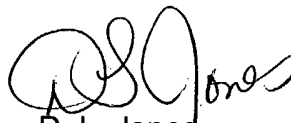
7. Applicant is respectfully requested to update the continuing data (i.e., 09/863,063 is now abandoned).

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. L. Jones whose telephone number is (571) 272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
D. L. Jones  
Primary Examiner  
Art Unit 1616

May 13, 2004